\ITEM NO.29 COURT NO.1 SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).646/2009

(From the judgement and order dated 17/12/2008 in CWP No.16681/2005 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

M/S COCA COLA INDIA INC. Petitioner(s)

VERSUS

ADDITIONAL COMMR.OF INCOME TAX & ORS. Respondent(s)

(With prayer for interim relief)

Date: 25/10/2010 This Petition was called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Petitioner(s) Mr. S. Ganesh,Sr.Adv.
Mr. Aashish Gupta,Adv.
for M/s. Suresh A. Shroff & Co.,Advs.

For Respondent(s) Mr. R.P. Bhatt,Sr.Adv.
Mr. D.K. Singh,Adv.
Mr. Arjun Krishnan,Adv.
Mr. B.V. Balaram Das,Adv.

UPON hearing counsel the Court made the following
O R D E R

The issue in this special leave petition concerns the application of the principle of Transfer Pricing. In the case of assessee herein, Notice was issued under Section 148 of the Income Tax Act, 1961 ['Act', for short] for some of the Assessment Years. On the question of jurisdiction, a writ petition was filed by the assessee, which

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has been disposed of by the High Court in the writ jurisdiction. However, on going through the papers, we find that foundational facts are required to be established which could not have been done by way of writ petition. For the afore-stated reasons, we are of the view that the assessee should be relegated to adopt proceedings, which are pending, as of date, before various Authorities under the Act. Enclosed herewith is the chart indicating the proceedings which are pending before various Authorities under the Act.

We, accordingly, direct these Authorities to expeditiously hear and dispose of pending proceedings as early as possible. If the petitioner-assessee herein is aggrieved by the orders passed by any of these Authorities, it will have to exhaust the statutory remedy provided under the Act. We make it clear that each of the Authorities will decide the matter uninfluenced by any of the observations made in the impugned judgement.

Accordingly, the special leave petition stands disposed of.

Stay order granted by this Court stands vacated.

[T.I. Rajput]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar